

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA**

Reginald Andrews,  
Plaintiff

-V.S.-

Tom Wolf, Commonwealth of Pennsylvania  
Governor, et. al.,  
Defendants

FILED  
SCRANTON

MAR 11 2019

PER Amo  
DEPUTY CLERK

Civil Action No.: 3:19cv436

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DISTRICT OF PENNSYLVANIA**

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Plaintiff

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Tom Wolff, Commonwealth of Pennsylvania  
Governor; John E. Wetzel, Pennsylvania Department of  
Corrections, Secretary of Corrections; Secretary Swope;  
Correctional Officer Swanger; Correctional Officer L.T. Keel;  
L.T. Myers; Dornia Varner, Chief Grievance Coordinator;  
Hollibaugh, Grievance Coordinator,  
Defendants

Civil Action No.: \_\_\_\_\_

To all be sued individually all in their official capacities.

**CIVIL RIGHTS COMPLAINT (42 U.S.C. § 1983)**

This is a Civil Rights Action brought under 42 U.S.C. § 1933, 28 U.S.C. § 1331, 1343(A)(B), 1343(A)(4), 1367(A). Concerning defendants, interference of fundamental rights, which resulted in unequal treatment that was not related to any legitimate penological interest.

**I. JURISDICTION**

This Court has jurisdiction under Pa.C.S. § 931 and Pa. R. Civ. P. 1091.

**II. VENUE**

The United States District Court for the Middle District of Pennsylvania, is

standing upright on the cell desk, leaning up against the wall.

8. Inching a little closer to actually access what was taken/missing, (i.e. "Private" photos of Plaintiff's wife, photo's of deceased relative, and (Plaintiffs') PCRA trial transcripts).
9. Plaintiff asked for a Confiscated Item Receipt (C.I.R.) and Correctional Officer Swanger denied this request.
10. Plaintiff quickly called for a Lieutenant.
11. Correctional Officers Swanger and Swope viciously pulled on the tether, with Correctional Officer Swanger shouting "L.T., I got one!!!"
12. Correctional Officer Swanger then further grabbed hold on the tether tightening the handcuffs until blood came forth from Plaintiff's wrists.
13. Plaintiff yelled out "You're hurting me!!!"
14. The handcuffs cut off ALL circulation in both wrists, up to the elbows leaving lacerations and bruises on Plaintiff.
15. Plaintiff asked to see a Nurse, Medical Correctional Officer Swanger and an unknown Staff said "NO".
16. Correctional Officer Swanger told an unknown staff to write up a DC-141 (Misconduct Report) to justify his illegal uprooting of Plaintiff's personal property and his assault upon Plaintiff.
17. Plaintiff neither resisted, nor became combative since being handcuffed or

the appropriate venue pursuant to § 9183(B) because the State Correctional Institution at Smithfield where the events giving rise to the claims occurred is located in Huntingdon County.

### **III. PARTIES**

Plaintiff, Reginald Andrews is currently confined at State Correctional Institution at Fayette. Plaintiff is at all times mentioned herein a prisoner of the Commonwealth of Pennsylvania, Department of Corrections.

### **IV. DEFENDANTS**

- A. Tom Wolf, Commonwealth of Pennsylvania Governor;
- B. John E. Wetzel, Pennsylvania Department of Corrections, Secretary of Corrections;
- C. Correctional Officer Swope (SCI-SMITHFIELD);
- D. Correctional Officer Swanger (SCI-SMITHFIELD);
- E. Correctional Lieutenant Keel (SCI-SMITHFIELD);
- F. Grievance Officer Myers (SCI-SMITHFIELD);
- G. Chief Grievance Officer Dorina Varner (Secretary's Office of inmate Grievance & Appeals);
- H. Grievance Coordinator Hollibaugh (SCI-SMITHFIELD).

### **V. EXHAUSTION OF AVAILABLE REMEDIES**

Plaintiff has exhausted all of his Administrative Remedies before the filing of

this complaint.

**VI. FACTUAL STATEMENT**

1. On the date of June 24, 2017 between the hour of 0600-0700 (6-7 a.m.) Correctional Officers came onto K-Unit, B Block (Restricted Housing Unit) to randomly search cells.
2. Correctional Officers Swanger and Swope stepped in front of cell (KB 2-030) that Plaintiff was housed in and told Plaintiff to come to the cell door to be handcuffed for a cell search.
3. Upon Plaintiff being handcuffed and being led out of the cell, Correctional Officers Swanger and Swope began searching the cell.
4. In the midst of searching Plaintiff's property, Correctional Officer Swanger with his back turned asked "Where are the drugs and tobacco?" Plaintiff informed him "You got the wrong dude."
5. Correctional Officer Swanger yelled behind his back, "You're a drug dealer!!"
6. After Correctional Officers Swanger and Swope, minutely searched Plaintiff's cell and going through Plaintiff's personal property, Plaintiff was told to go back into the cell.
7. Still having the handcuffs on Plaintiff immediately seen that items/property were missing (i.e. pictures, legal mail, and trial transcripts). which were all

during this assaultive ordeal.

18. After the above described assault, Plaintiff submitted missives, affidavits, declarations to Governor Tom Wolf, Secretary, Department of Corrections John E. Wetzel and exhausted all administrative remedies. Grievances and appeals were denied.

### **CLAIMS FOR RELIEF**

#### **A. FAILURE TO PROTECT**

1. The failure of defendants Tom Wolf Governor, [REDACTED], [REDACTED], John Weztel Secretary Department of Corrections, to act on their knowledge (throught the Pennsylvania Department of Corrections Mission Statement, Missives, affidavits and declarations) of a substantial risk of serious harm to Plaintiff violated his Eighth (8<sup>th</sup>) Amendment Right to be free from deliberate indifference.

2. As a result of Defendants Tom Wolf, [REDACTED], John Wetzel failure, Plaintiff was maliciously and sadistically assaulted and received serious physical and emotional injuries. **See: Farmer, 511 U.S. at 847 (Prison Official is liable under the Eighth Amendment "only if he knows that inmate face a substantial, risk by failing to take reasonable measure to abate it".**

#### **B. DELIBERATE INDIFFERENCE TO MEDICAL NEEDS**

1. The refusal of Defendant's Swanger, John Doe, to provide medical attention to Plaintiff's injuries, upon request of Plaintiff, constituted deliberate indifference to Plaintiff's serious medical needs, in violation of the Eighth (8<sup>th</sup>) Amendment. See: **Estelle v. Gamble, 429 U.S. 97, 104-05 (1976)**("We therefore conclude that 'deliberate indifference and wanton infliction of pain prescribed by the Eight Amendment").

### **C. Retaliation**

1. The refusal of Defendant's Swanger, to provide a Confiscation Items Receipt (C.I.R.) for property taken and refusal of medical attention for Plaintiff's injuries and by Defendant Swanger telling an unknown Staff/C.O. to write-up a DC-141 (Misconduct Report). As a result of Plaintiff's constant request(s) for a redress of grievance(s) and therefore violating the First (1<sup>st</sup>) Amendment.
2. The actions of Defendant(s) John Doe for filing a false Misconduct Report violated Plaintiff's First Amendment Right to the United States Constitution on Retaliation. See **Mays v. Springbern, 575 F.3d at 650**(Commencement of more onerous searches immediately after Plaintiff complained of searches).

### **D. Cruel and Unusual Punishment**

1. The actions of Defendant's Swanger, Swope, in using physical force against

the Plaintiff without the need of provocation or in failing to intervene to prevent the misuse of force was done maliciously and sadistically constituted cruel and unusual punishment in violation of the Eighth (8<sup>th</sup>) Amendment of the United States Constitution.

2. The actions of Defendant's Swanger, Swope in using physical force against the handcuffed Plaintiff without need of provocation constituted the tort of assault and battery under the law of Pennsylvania (The assault constituted excessive force and combined with the failure to provide medical attention, violated Plaintiff's Fourth (4<sup>th</sup>), Eighth (8<sup>th</sup>), and Fourteenth (14<sup>th</sup>) Amendment Right and constituted Pennsylvania State Tort).

The Pennsylvania Department of Corrections has a unwritten policy, procedure of using excessive force and had failed to adequately train and supervise its employees.

3. The failure of Defendant(s) Tom Wolf, John E. Wetzel to take disciplinary, or other action against Defendants Swope, Swanger, Keel, Myers, Varner, and Hollibaugh, constituted deliberate indifference to the Plaintiff's safety, and contributed, to and proximately caused the above-described violation, of the Eighth Amendment and assault and battery.
4. The actions of Defendant's Swanger, Swope, and Keel in refusing to alert the Medical Department immediately when requested by Plaintiff to



examine and treat Plaintiff's injuries, constituted Deliberate Indifference to Plaintiff's serious medical needs in violation of the Eighth Amendment to the United States Constitution.

**E. Negligent Failure to Protect**

1. The Defendant's Tom Wolf, John E. Wetzel, Swope, Swanger, Keel, Myers, Varner, and Hollibaugh, owed the plaintiff a duty or reasonable care to protect Plaintiff from mental, emotional and physical assault by Pennsylvania Department of Correctional staff.
2. The Defendant's Tom Wolf, John E. Wetzel, Swope, Keel breached that duty by failing to provide protection, when Plaintiff asked for aid through verbal and written Request to Staff, Complaints, Grievances, Affidavits, Declarations, Missives informing of Defendant(s) Swope, Swanger, Keel, Varner, Hollibaugh actions.
3. The breach of duty resulted in serious emotional and physical injuries and damages.
4. The breach of duty caused these damages.

**RELIEF REQUESTED**

WHEREFORE, Plaintiff requests that the Court grant the following relief:

A. Issue a declaratory judgment stating that,

1. The physical abuse of the Plaintiff by Defendant's Swope, Swanger and Keel

violated Plaintiff's rights under the Eighth Amendment to the United States Constitution and constituted Assault and Battery under Pennsylvania law.

B. Issue an injunction ordering that Defendant's John E. Wetzel to expunge the disciplinary Misconduct from Plaintiff's file/institutional records.

C. Award compensatory damages in the following amounts:

1. \$100,000.00 (One-Hundred Thousand Dollars) Jointly and severally against Defendants Swope, Swanger, Keel, for the physical and emotional injuries sustained as a result of Plaintiff's injuries.
2. \$50,000.00 (Fifty-Thousand Dollars) Jointly and severally against Defendants Swope, Swanger, Keel, for the Assault and Battery, including deprivation of liberty (and amenity) and emotional injury resulting from their denial of Due Process in connection with the Plaintiff's confiscated property.
3. \$50,000.00 (Fifty-Thousand Dollars) Jointly and severally against Defendants Swope, Swanger, Keel, for the physical and emotional injury resulting from their failure to provide adequate medical care to the Plaintiff.

D. Award Punitive Damages in the following amounts:

1. \$40,000.00 (Fourty-Thousand Dollars) each against Defendants Tom Wolf, and John E. Wetzel.
2. \$30,000.00 (Thirty-Thousand Dollars) each against Defendants C.O.

Swope, C.O. Swanger, L.T. Keel.


3. \$20,000.00 (Twenty-Thousand Dollars) each against Defendants L.T.

Myers, Varner, and Hollibaugh.

4. And for all Defendants to pay the appropriate pre-judgment and post-judgment interest rate.

E. Grant such other relief as it may appear that the Plaintiff is entitled to.

**Respectfully Submitted,**

  
\_\_\_\_\_

**Dated:** 2-19-2019

**PROOF OF SERVICE**

I, Reginald Andrews do hereby aver that copies of the attached/enclosed  
N/A have been mailed to the below listed person(s) by First Class Mail,  
postage paid, on 2-19-2019. This service satisfies the requirements of the  
Prisoner's Mailbox Act with a Certificate of Mailing (Com. v. Jones 700 A.2d 423; Huston v.  
Lack 108 S.Ct. 2379):

Service by First Class Mail:

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Respectfully Submitted,

Reginald Andrews  
SCI Fayette  
48 Overlook Drive  
La Belle, PA 15450

**UNSWORN DECLARATION**

I, Reginald Andrews, do hereby verify that all of the facts that are contained in the foregoing are true and correct to the best of my information, belief and that any false statements herein are made subject to the penalties of **Title 28 U.S.C. § 1746** relating to unsworn falsification to authorities.

Dated: 2-19-2019, 2019

Executed at: SCI-FAYETTE  
48 Overlook Drive  
La Belle, Pennsylvania  
15450

**Respectfully Submitted,**

Reginald Andrews



REGINALD ANDREWS # KR-1509  
601 FAIRFAX  
48 ONERIDGE DRIVE  
LABETTE, PA 15453 -  
0909

U.S. District Court, Middle District of  
PENNSYLVANIA  
235 N. Washington Ave. P.O. Box 1148  
SCRANTON, PA 18501

Q.I.

LEGAL MAIL

RECEIVED  
SCRANTON

MAR 11 2019

*[Signature]*

